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U.S. Department of Homeland Security  
20 Massachusetts Ave., NW, Room A3042  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

*E2*

FILE:

Office: SAN FRANCISCO (FRESNO), CA

Date: **JAN 24 2005**

IN RE:

Applicant:

APPLICATION:

Application for Certificate of Citizenship under Section 301(a)(7) of the former  
Immigration and Nationality Act; 8 U.S.C. § 1401(a)(7).

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The waiver application was denied by the District Director, San Francisco, California, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The record reflects that the applicant was born in Mexico on October 23, 1957. The applicant's father, Manuel Acevedo-Flores, was born in California on June 14, 1925, and he is a United States (U.S.) citizen. The applicant's mother, [REDACTED] was born in Mexico and she became a naturalized U.S. citizen on March 30, 2000, when the applicant was thirty-two years old. The applicant's parents were married on May 9, 1945. The applicant seeks a certificate of citizenship pursuant to section 301(a)(7) of the former Immigration and Nationality Act (the former Act); 8 U.S.C. § 1401(a)(7), based on the claim that she derived U.S. citizenship at birth through her father.

The district director concluded the applicant had failed to establish that his father met the physical presence requirements set forth in section 301 of the former Act. The application was denied accordingly.

The applicant asserts on appeal that additional evidence establishes her father was physically present in the United States for the requisite period of time set forth in the former Act.

8 C.F.R. § 103.3(a)(2) states in pertinent part:

(i) Filing appeal. The affected party shall file an appeal on Form I-290B. Except as otherwise provided in this chapter, the affected party must pay the fee required by § 103.7 of this part. The affected party shall file the complete appeal including any supporting brief with the office where the unfavorable decision was made within 30 days after service of the decision.

8 C.F.R. § 103.3(a)(2)(v)(B)(2) states in pertinent part, that, "[a]n appeal which is not filed within the time allowed must be rejected as improperly filed."

The district director's decision also states clearly that the appeal of an unfavorable decision must be made to the AAO within 30 calendar days of the decision (33 days if the decision is mailed).

The district director's decision denying the application is dated March 29, 2004. However, the record reflects that the applicant's Form I-290, Notice of Appeal was filed on May 4, 2004, after the 30 (33) days allowed for filing. Accordingly, the appeal will be rejected as improperly filed.

**ORDER:** The appeal is rejected.